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LETTER DATED 8 JULY 1998 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to resolution 955 (1994) of 8 November 1994, by which the Security Council established an International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994 (hereinafter referred to as "the International Tribunal for Rwanda"). I also have the honour to refer to Security Council resolution 1165 (1998) of 30 April 1998, by which the Council established a third Trial Chamber of the International Tribunal for Rwanda.

Article 12 of the statute of the International Tribunal for Rwanda, as amended by Security Council resolution 1165 (1998), provides as follows:

"Qualification and election of judges

"1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law, and human rights law.

"2. The members of the Appeals Chamber of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (hereinafter referred to as 'the International Tribunal for the Former Yugoslavia') shall also serve as the members of the Appeals Chamber of the International Tribunal for Rwanda.

"3. The judges of the Trial Chambers of the International Tribunal for Rwanda shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

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"(a) The Secretary-General shall invite nominations for judges of the Trial Chambers from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

"(b) Within thirty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in paragraph 1 above, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any judge on the Appeals Chamber;

"(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received, the Security Council shall establish a list of not less than eighteen and not more than twenty-seven candidates, taking due account of adequate representation on the International Tribunal for Rwanda of the principal legal systems of the world;

"(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list, the General Assembly shall elect the nine judges of the Trial Chambers. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

"4. In the event of a vacancy in the Trial Chambers, after consultation with the Presidents of the Security Council and the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of paragraph 1 above, for the remainder of the term of office concerned.

"5. The judges of the Trial Chambers shall be elected for a term of four years. The terms and conditions of service shall be those of the judges of the International Tribunal for the Former Yugoslavia. They shall be eligible for re-election."

On 24 and 25 May 1995, the General Assembly elected the following six persons as judges of the International Tribunal for Rwanda, for terms of office to expire on 24 May 1999:

Mr. Laity Kama (Senegal)

Mr. Lennart Aspergren (Sweden)

Mr. T. H. Khan (Bangladesh)

Mr. Yakov Ostrovsky (Russian Federation)

Ms. Navanethem Pillay (South Africa)

Mr. William Sekule (United Republic of Tanzania).

In resolution 1165 (1998) establishing a third Trial Chamber of the International Tribunal for Rwanda, the Security Council decided that the elections for that third Trial Chamber and for the other two Trial Chambers shall be held together. The Security Council also decided in that resolution that the terms of office of all judges elected in those elections shall expire on 24 May 2003. The Security Council further decided in that resolution, as an exceptional measure to enable the third Trial Chamber to begin to function at the earliest possible date, that three newly elected judges, designated by the Secretary-General in consultation with the President of the International Tribunal and in compliance with the requirement that none of them shall be of the same nationality as a judge who is currently serving on the Tribunal, shall commence their terms of office as soon as possible following the elections. The other judges shall commence their terms of office, or, if they are judges who are currently serving on the Tribunal and are re-elected, commence their new terms of office on 25 May 1999.

Pursuant to paragraph 3 (a) of article 12 of the statute of the International Tribunal for Rwanda, States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters were invited, by a letter dated 4 June 1998, to submit nominations for the nine judges of the three Trial Chambers of the International Tribunal for Rwanda and were informed that, within thirty days of the date of that letter, they might nominate up to two candidates meeting the qualifications set out in paragraph 1 of article 12 of the Tribunal's statute. They were also informed that, in accordance with paragraph 3 (b) of article 12 of the statute, no two of the candidates so nominated might be of the same nationality and that no candidate so nominated might be of the same nationality as any judge on the Appeals Chamber. The Appeals Chamber currently comprises judges who are nationals of China, Colombia, Guyana, Malaysia and the United States of America. Accordingly, nationals of those countries may not be nominated as candidates for judges of the International Tribunal for Rwanda.

I would take this opportunity to note that, pursuant to paragraph 5 of article 12 of the statute, the judges of the International Tribunal for Rwanda are to serve on a full-time basis and so may not engage in any other occupation of a professional nature during their terms of office. Once elected to the Tribunal, they are expected to take up residence at its seat in Arusha, Tanzania.

Pursuant to paragraph 3 of article 12 of the statute of the International Tribunal for Rwanda, I have the honour herewith to forward to the Security Council the five nominations which have been received from States Members of the United Nations within the thirty-day period specified in paragraph 3 (b) of article 12 of that statute. The list of candidates, in alphabetical order, is annexed to this letter, together with the curricula vitae provided in connection with their nominations.

In this connection, I would draw the attention of the Security Council to paragraph 3 (c) of article 12 of the statute, which provides in relevant part as follows: "From the nominations received, the Security Council shall establish a list of not less than eighteen and not more than twenty-seven candidates, taking

due account of adequate representation on the International Tribunal for Rwanda of the principal legal systems of the world".

I would note that the list of five candidates is short of the minimum number of eighteen which is required by paragraph 3 (c) of article 12 of the statute. I would accordingly suggest that the Council extend the deadline for nominations until 4 August 1998, which deadline would coincide with the deadline for nominations for judges of the International Criminal Tribunal for the Former Yugoslavia. If the Security Council were so to extend the deadline, the Secretary-General would notify States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters accordingly.

(Signed) Kofi A. ANNAN

Annex

List of candidates nominated by Governments

(in alphabetical order)

Number	Name	Nationality	Nominated by Government of
1.	Mr. Laity Kama	Senegalese	Senegal
2.	Mr. Yakov Ostrovsky	Russian	Russian Federation
3.	Ms. Navanethem Pillay	South African	South Africa
4.	Ms. Indira Rana	Nepali	Nepal
5.	Mr. William Sekule	Tanzanian	United Republic of Tanzania